

REMARKS

With entry of this amendment, claims 12-14 and 21-30 have been canceled, and claims 68-80 have been newly added. Claims 1-11, 15-20, and 68-80 are now pending in this application. Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

Withdrawn Claims

Applicant acknowledges the withdrawal of claims 3, 5, 6, 10, 12, 17, 18, and 24 from consideration. Claims 12 and 24 have been cancelled. Applicant respectfully requests allowance of claims 3, 5, 6, 10, 17, and 18 upon the allowance of the claims from which they depend.

Claim Rejections-35 U.S.C. §102

Hamm

Claims 1, 2, 7, 9, 11, 13, and 14 stand rejected under 35 U.S.C. §102(b), as being anticipated by U.S. Patent No. 5,949,929 issued to Hamm, et al. ("Hamm"). Claims 13 and 14 have been cancelled, thereby rendering the rejections of these claims moot. As for the remaining claims, Applicant respectfully traverses this rejection, since Hamm does not disclose each and every element required by these claims, as amended.

In particular, independent claim 1 has been amended to require a tissue treatment device slidably disposable within a lumen configured to be placed into fluid communication with a breast duct. In contrast, Hamm does not disclose a tissue treatment device configured to be slidably disposed within the lumen of the catheter 112.

Thus, Applicant submits that independent claim 1, as well as the claims depending therefrom (claims 2, 7, 9, and 11), are not anticipated by Hamm, and as such, respectfully request withdrawal of the §102 rejections of these claims.

Gatto

Claims 15, 19-23, and 25-29 stand rejected under 35 U.S.C. §102(e), as being anticipated by U.S. Patent No. 6,840,909 issued to Gatto ("Gatto"). Claims 21-23 and 25-29 have been cancelled, thereby rendering the rejections of these claims moot. As for the remaining claims, Applicant respectfully traverses this rejection, since Gatto does not disclose each and every element required by these claims, as amended.

In particular, independent claim 15 has been amended to require the tissue imaging device and tissue treatment device to be slidably disposable in the lumen configured to be placed in fluid communication with the breast duct. In contrast, the imaging device 12 of Gatto is not slidably disposable within a lumen that conveys fluid. Similarly, the laser fiber 50 is not slidably disposable within a lumen that conveys fluid.

Thus, Applicant submits that independent claim 15, as well as the claims depending therefrom (claims 19 and 20), are not anticipated by Gatto, and as such, respectfully request withdrawal of the §102 rejections of these claims.

Claim Rejections-35 U.S.C. §103

Claims 4 and 8 stand rejected under 35 U.S.C. §103, as being obvious over Hamm in view of U.S. Patent No. 6,497,706 issued to Burbank, et al. ("Burbank"). Claims 16 and 30 stand rejected under 35 U.S.C. §103, as being obvious over Gatto in view of Burbank. Claim 30 has been canceled, thereby rendering the rejection of this claim moot. As for the

remaining claim 4, 8, and 16, Applicant respectfully traverses this rejection, since no proper combination of Hamm and Burbank discloses, teaches, or suggests the combination of elements required by these claims.

As explained above, neither Hamm nor Gatto disclose a tissue therapeutic device that is slidably disposable within a cannula lumen configured for being in fluid communication with a breast duct, as required by independent claim 1 and 15. Burbank does not supplement these failed teachings. While Burbank does teach the use of a slidable electrode 12, such electrode is not a tissue treatment electrode, but rather is used to cut tissue for taking a biopsy. In addition, the electrode 12 is designed to slide outside of a probe member 11 to cut a tissue sample (see col. 5, lines 5-15)—not inside the lumen of a cannula, as required by the claims. Burbank also discloses an electrode 13 used to advance the probe member 11 through tissue (see col. 6, lines 20-3). However, such electrode is not a tissue treatment electrode and does not slide within a lumen. Based on this, there is simply no suggestion in Burbank that the electrodes 12 and 13 can be slidably disposed within a lumen configured for being placed in fluid communication with a breast duct.

Thus, Applicant submits that claims 4, 8, and 16 are not obvious over any proper combination of Hamm and Burbank, and as such, respectfully request withdrawal of the §103 rejections of these claims.

New Claims

Applicant submits that newly added claims 68-80 find support in the specification, as originally filed, and are patentable over the prior art.

Conclusion

Based on the foregoing, it is believed that all claims are now allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (949) 724-1849.

Respectfully submitted,

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